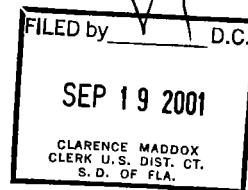


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 00-6273-CR-HUCK-BROWN

UNITED STATES OF AMERICA,
Plaintiff,

VS.

FREDERICK MASSARO,
Defendant.



ORDER DENYING MOTION TO DISMISS

THIS CAUSE is before the Court on Defendant Frederick Massaro's Motion to Dismiss Indictment, RICO Conspiracy and Initial Motion to Dismiss Murder Related Counts. The Defendant Adam Todd Silverman, joined in that Motion to Dismiss. The Motion to Dismiss was referred to Magistrate Judge Stephen T. Brown for his Report and Recommendation. On August 6, 2001, Magistrate Judge Brown issued his Report and Recommendation in which he, after his written analysis and discussion, recommended that the Motion to Dismiss be Denied.

Thereafter, Defendant Massaro, timely filed his Objections to the Report and Recommendation of Magistrate Judge Brown, in which Defendant Massaro, adopted as part of his objection, his extensive Motion to Dismiss and generally asserted that Magistrate Judge Brown erred in finding that the subject "enterprise" was properly defined in accordance with constitutional requirements and that the murder related counts are not vague, or otherwise unconstitutional. Defendant Silverman, likewise, essentially adopts and relies on the legal arguments and recitation of facts set forth in the Motion to Dismiss.

The Government, noting that Defendants raise no new issue or argument, relied on its response to Defendant Massaro's Motion to Dismiss.

A handwritten signature or set of initials, possibly "GJ/SP", written in dark ink.

After its de novo consideration of the Motion to Dismiss, the Court finds that the Defendants' have failed to show that the indictment, or any count therein, is unconstitutional or should be dismissed for any other ground. In large measure, it also appears that the Defendant Massaro's Motion to Dismiss is intended to preserve the Defendant's rights, pursuant to Rule 29, at trial. In any event, the Court ADOPTS in their entirety the Report and Recommendation, and OVERRULES the Defendant's objections, it is therefore,

ORDERED AND ADJUDGED that the Defendants Motion to Dismiss is DENIED.

DONE AND ORDERED in Miami, Florida, this 19th day of September, 2001.


PAUL C. HUCK
UNITED STATES DISTRICT JUDGE

cc: Honorable Stephen T. Brown
all counsel of record